

Decision 02-12-048 December 17, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations, practices, and conduct of Pacific Bell Wireless LLC dba Cingular Wireless, U-3060, U-4135 and U-4314, and related entities (collectively "Cingular") to determine whether Cingular has violated the laws, rules and regulations of this State in its sale of cellular telephone equipment and service and its collection of an Early Termination Fee and other penalties from consumers.

Investigation 02-06-003
(Filed June 6, 2002)

INTERIM ORDER EXTENDING STATUTORY DEADLINE

Pub. Util. Code § 1701.2(d) provides that adjudicatory cases shall be resolved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending the deadline. By motion filed October 28, 2002, Cingular Wireless (Cingular) asks that the Commission extend the time to resolve this proceeding. In a companion motion, filed the same date, Cingular requested modification of the procedural schedule to provide it with more time to prepare its defense and noted that the schedule was twice modified to grant the Commission's Consumer Protection Services Division and Utility Consumers' Action Network additional time to draft and serve their prepared testimony. Following discussions with the Assigned Commissioner, the assigned Administrative Law Judge (ALJ) modified the procedural schedule, for good cause, after hearing on that motion on

November 6, 2002 and confirmed the revisions in a further ruling on November 12, 2002.

Under the revised schedule for evidentiary hearing, Cingular's prepared testimony will be distributed in late January 2003 and evidentiary hearing will occur in mid-March 2003. These changes move the likely date for the filing of reply briefs and concurrent submission of this case to mid-May 2003, and the likely date for issuance of a presiding officer's opinion (POD) to mid-July 2003. Absent an appeal, the POD will become the decision of the Commission 30 days later, in mid-August 2003. Thus, since the current 12-month deadline is June 6, 2003, these schedule changes require extension of the 12-month deadline.

Good cause appearing, we will grant Cingular's motion and will extend the deadline for resolving this case by approximately four months, until October 17, 2003, to accommodate the revised procedural schedule.

Under Rule 77.7(f)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of draft decisions that extend the deadline for resolution of adjudicatory proceedings. Accordingly, pursuant to Rule 77.7(f)(4), the otherwise applicable period for public review and comment is being waived.

Assignment of Proceeding

Carl Wood is the Assigned Commissioner and Jean Vieth is the assigned ALJ.

Findings of Fact

1. Pursuant to Pub. Util. Code § 1701.2(d), the current deadline for resolving this case is June 6, 2003.
2. Cingular's October 28, 2002 motion requests the extension to accommodate the schedule modifications requested in a companion motion filed on the same

date and subsequently granted to defer the dates for distribution of Cingular's prepared testimony and for evidentiary hearing.

3. Under the revised schedule, the POD will be issued after June 6, 2003 and therefore, an extension of the 12-month deadline is necessary.

Conclusions of Law

1. Cingular's October 28, 2002 joint motion for an extension of the current deadline for resolution of this proceeding should be granted, effective immediately.

2. The current deadline for resolution of this proceeding, imposed by Pub. Util. Code § 1701.2(d), should be extended until October 17, 2003.

IT IS ORDERED that the current deadline for resolution of this proceeding, imposed by Pub. Util. Code § 1701.2(d), is extended to October 17, 2003.

This order is effective today.

Dated December 17, 2002, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
CARL W. WOOD
GEOFFREY F. BROWN
MICHAEL R. PEEVEY
Commissioners